

**GUIDELINES
FOR
SCHOOL DIVISION POLICY
REGARDING
SERVICE DOGS IN VIRGINIA’S PUBLIC SCHOOLS**



Division of Special Education and Student Services

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INTRODUCTION

Recent amendments to the Virginians with Disabilities Act, at § 51.5-44 which governs what is known as the service dog's right of access, became effective July 1, 2008. The specific language was intended to include public schools in the group of public entities that must meet the requirements of this statute.¹

The Virginia Department of Education (VDOE) reviewed the recent amendments, as well as existing requirements of the *Individuals with Disabilities Education Act*, the *Rehabilitation Act of 1973, as amended*, the *Americans with Disabilities Act*, the *Virginians with Disabilities Act*, and documents from the Assistance Dogs International, Inc. We reviewed these requirements with our department's legal counsel.

In summary, our review finds that the *Code of Virginia*, § 51.5-44 affords each student a near absolute right to be accompanied by a service dog in a Virginia public school; however, this right must be qualified, carefully weighed against the rights of other students who are equally entitled to receive educational benefits at the school. Furthermore, the right of the student to be accompanied by a service dog must also be weighed against the school division's ongoing legal responsibility to operate, maintain, and supervise Virginia's public schools. (*The Constitution of Virginia*, Art. VIII, Section 7).

Up until now, we generally considered the use of service dogs in relation to children with disabilities. Inclusion of the service dog in the child's educational environment was determined as an accommodation by the child's IEP or 504 team. The new amendment, however and in the context noted above, provides a separate statutory right of the student to be accompanied by a service dog, thereby making IEP/504 team determinations unnecessary.

School personnel should consult with their school board attorney on the development of the school division's policy on this issue, as well as its application in individual cases that raise concern. Questions related to this document may be made to staff in VDOE's Office of Dispute Resolution and Administrative Services by calling (804) 225-2013.

¹ While the amendments apply to students, school employees, and school visitors, the focus of these guidelines is students in Virginia's public schools, K-12.

PROPOSED POLICY GUIDELINES

A. GENERAL FRAMEWORK

“General Statement”

We recommend that the school division’s policy include a statement that the document applies the legal standards as set forth in the:

Code of Virginia, § 51.5-44
Individuals with Disabilities Education Act
The Rehabilitation Act of 1973, as amended
Americans with Disabilities Act
Virginians with Disabilities Act

We recommend that the document’s opening statement emphasize that the basic thrust of the policy is that any animal (pet or service animal) is personal property and cannot be brought onto school property without prior approval. If the child arrives at school with the dog and previous approval has not been obtained, then the parents/guardians will be immediately notified and requested to come to the school to retrieve the dog until it can be determined that the presence of the dog in school is in compliance with the law. The dog will remain with the child until the parent/guardian removes the dog from school property. The dog will not be “confiscated” and taken away from the child.

“Definitions”

We recommend that the policy include at minimum the definitions included in § 51.5-44:

“Hearing dog” means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

“Service dog” means a dog trained to accompany its owner or handler for the purpose of carrying items, retrieving objects, pulling a wheelchair, alerting the owner or handler to medical conditions, or other such activities of service or support necessary to mitigate a disability.

“Three-unit service dog team” means a team consisting of a trained service dog, a disabled person, and a person who is an adult and who has been trained to handle the service dog.

“No Pets Allowed In School”

Service animals are not pets, thus a “no pet” policy cannot be applied to a service animal. School policy likely already restricts certain personal property from being brought onto school grounds, for example, toys, sharp objects, weapons.

We recommend that the policy set forth the reasons for the prohibition regarding pets.

Sample language:

We are dedicated to protecting the health and well-being of our community. Some students are highly allergic to certain animals. Animals can also spread disease, or behave in dangerous or unpredictable ways that can cause injury to persons with whom they come into contact. Please help us maintain a safe environment for all students by respecting these policies.

“Service Dog Exception”

By framing the service dog policy as an exception to the prohibition on animals, it is set apart from the “No Pets” policy provision. It is important to note that under no set of circumstances does having a dog give the dog’s handler a “free pass” to access a place to which s/he would not otherwise be allowed to access without the dog by merely claiming the dog as a “service dog”.

We recommend that the policy set forth the reasons for the exception:

Sample language:

We do not discriminate on the basis of disability. Persons with disabilities have the same right as the able-bodied to the use and enjoyment of our school. We strive to make reasonable accommodations for a disabled person’s use of a service dog on school property. We have established the following procedures for evaluating whether and how a request to bring a service dog on school property can be implemented under the circumstances on a case-by-case basis.

“Provisions if the service dog is in training”

We recommend that the policy include a provision if the service dog is in training. The provision should recognize that the individual may be an experienced trainer or if the dog has completed initial training, an individual who is conducting continuing training. The provision should address the required qualifications of the individual as found in § 51.5-44 E.

B. STANDARDS BY WHICH THE REQUEST WILL BE EVALUATED

We recommend that the policy include the following standards:

(1) The dog must be a “trained service dog”

A “trained service dog” can be called a:	A “trained service dog” is NOT called a:
<ul style="list-style-type: none">• hearing dog• guide dog• assistance dog• seizure alert dog• mobility dog• psychiatric service dog• autism service dog	<ul style="list-style-type: none">• skilled companion animal• therapy dog• social dog• facility dog• agility dog• police dog• search and rescue dog• helping dog• support dog

(2) The service dog must have a health certificate that evidences the dog is currently in good health, free from parasites, and has received all recommended vaccinations.

(3) Guide dogs for totally or partially blind persons and hearing dogs for deaf or hearing impaired or otherwise disabled persons must wear a harness, backpack, or vest identifying the dog as a trained service dog.

(4) The service dog and its primary handler must be certified for “public access”.

Any purported service dog that is being brought into a school setting must have sufficient training to be certifiable for public access. Assistance Dogs International (ADI), Inc. uses a standardized Public Access Test that results in the dog and its handler being awarded a certificate. Having “Public Access” is an important, objective measure of the dog’s ability to behave appropriately in public and the handler’s ability to handle the dog in public. If such a certificate cannot be produced

by the handler, then either the dog must pass the ADI Public Access Test or the handler must produce credible proof that the dog has met ADI's "Minimum Standards For Training Service Dogs."² Costs associated with the certification are the responsibility of the parent(s).

(5) Even if the service dog is certified for public access, it will be denied access to school property if at any time ADI's "Minimum Standards For Assistance Dogs In Public" are not maintained:

- Dog is clean, well-groomed and does not have an offensive odor.
- Dog does not urinate or defecate in inappropriate locations.
- Dog does not solicit attention, visit or annoy any member of the student body or school personnel.
- Dog does not vocalize unnecessarily, i.e., barking, growling or whining.
- Dog shows no aggression towards people or other animals.
- Dog does not solicit or steal food or other items from the student body or school personnel.

(6) The service dog must not in any other way interfere with the educational process of any student.

(7) The service dog must not pose a health or safety threat to any student, personnel or other persons.

(8) Designated School Administrator Contact Person

We recommend that the school division's policy identify the school building administrator, such as the principal, as the individual determining if the service dog meets the school division's standards.

(9) Appealing a denial of a request for the service dog:

A challenge to the administrator's determination regarding the qualification of the person and/or the dog may be appealed to: (LEA defines this process).

² The ADI Public Access Test can be administered by any of the three ADI member organizations in Virginia. They are: Service Dogs of Virginia, Inc., located in Charlottesville; St. Francis of Assisi Service Dog Foundation in Roanoke; and Blue Ridge Assistance Dogs, Inc., in Manassas. These organizations can also evaluate whether the dog meets ADI's "Minimum Standards."

C. ADDITIONAL RECOMMENDATIONS

In the event access is granted, each school should consider and establish the following:

- a rest place for the dog (such as a crate in a quiet place).
- rest times for the dog (gym, lunch and recess are especially difficult school periods for a service dog to successfully endure).
- emergency evacuation plan.
- fire drill plan/participation.
- pre-treating the school facility on a regular basis to reduce dog-borne allergens.
- an alternate accommodation/plan in the event the dog's primary handler (if not the child) or the dog is not able to accompany the disabled child to school due to illness, injury or death.
- training for any aides who may handle the dog, other than the primary handler.
- a school-wide educational program to educate others on how to behave appropriately around the service dog.

SAMPLE

SERVICE DOG ACCESS REQUEST CHECKLIST

School Division: _____

Student: _____

School: _____

Date: _____

CONSIDERATIONS	COMMENTS	YES	NO
1. Is the dog a “trained service dog”?	<p>Identify type of service dog: _____</p> <p>A “trained service dog” can be called a:</p> <ul style="list-style-type: none"> • hearing dog • guide dog • assistance dog • seizure alert dog • mobility dog • psychiatric service dog • autism service dog <p>A “trained service dog” is NOT called a:</p> <ul style="list-style-type: none"> • skilled companion animal • therapy dog • social dog • facility dog • trained agility dog • police dog • search and rescue dog • helping dog • support dog 		
2. Does the dog have a current health certificate?	Certificate from veterinarian provided?		
3. Are the dog and its primary handler certified for public access?	Certificate from ADI member organization provided? If a school employee serves as the primary handler during school hours, ask whether that school employee is or will be trained.		
4. Does the dog meet all the Minimum Standards for a service dog?	<p>Based on observation:</p> <p>i. Dog is clean, well-groomed and does not have an offensive odor;</p> <p>ii. Dog does not urinate or defecate in</p>		

	<p>inappropriate locations;</p> <p>iii. Dog does not solicit attention, visit or annoy any member of the general public;</p> <p>iv. Dog does not vocalize unnecessarily, i.e., barking, growling or whining;</p> <p>v. Dog shows no aggression towards people or other animals; and</p> <p>vi. Dog does not solicit or steal food or other items from the general public.</p>		
5. Does the dog perform task(s) or function(s) that mitigate the student's disability?	<p>Identify task(s) or function(s):</p> <p>1- _____</p> <p>2- _____</p> <p>3- _____</p> <p>Or</p> <p>Has a medical professional confirmed the student's disability and need for a service dog?</p>		
6. If the primary handler is not the student, is the handler otherwise qualified to be on school property?	Consider primary handler's criminal history background, relevant court orders, permission of parent/guardian.		

Any "No" responses may support denial of access.